

**MARK A. LITMAN & ASSOCIATES, P.A.**  
PATENT, TRADEMARK & COPYRIGHT ATTORNEYS

York Business Center, Suite 205

3209 West 76<sup>th</sup> Street

Edina, MN 55435

Telephone (952)832.9090

Facsimile (952)832.9191

**RECEIVED**  
**CENTRAL FAX CENTER**

JUL 31 2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Philip Stephen Smith, et al.	Examiner:	Pinheiro, Jason Paul
Serial No.	10/764,994	Art Unit:	3714
Filed:	January 26, 2004	Docket No.	PA0957.ap.US
Title:	CARD SHUFFLER WITH READING CAPABILITY INTEGRATED INTO MULTIPLAYER AUTOMATED GAMING TABLE		

---

You should receive 28 page(s) including this one.  
If you do not receive all pages, please call (952) 832-9090


---

Facsimile Center

Washington, DC 20231

FAX NUMBER: **(571) 273-8300**TELEPHONE: **(571) 272-1397****\* Please deliver to MAIL STOP: APPEAL BRIEF - PATENTS**

**THIS LETTER AUTHORIZES THE USPTO TO DEBIT DEPOSIT ACCOUNT  
NUMBER 50-1391 FOR FEES ASSOCIATED WITH THIS RESPONSE, IF SUCH FEES  
ARE NECESSARY.**

Total pages of this transmission, including this COVER SHEET: 28If you do NOT receive all of the pages described above, please telephone us at  
952.832.9090, or fax us at 952.832.9191.By:   
Atty: Mark A. Litman  
Reg. No. 26,390I hereby certify that this paper is being transmitted by facsimile to the United States Patent and Trademark  
Office on the date shown below.  
Mark A. Litman31 July 2008  
Date

This transmission contains information that is confidential and/or legally privileged. It is intended for use  
only by the person to whom it is directed. If you have received this facsimile in error, please notify us by  
telephone immediately so that we can arrange for the return of the original documents to us. If you do  
NOT receive all of the pages, please telephone us in the U.S.A. at (952) 832.9090 or FAX us at  
(952)832.9191.

RECEIVED  
CENTRAL FAX CENTER

JUL 31 2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Philip Stephen Smith, et al.	Examiner:	Pinheiro, Jason Paul
Serial No.	10/764,994	Art Unit:	3714
Filed:	January 26, 2004	Docket No.	PA0957.ap.US
Title:	CARD SHUFFLER WITH READING CAPABILITY INTEGRATED INTO MULTIPLAYER AUTOMATED GAMING TABLE		

**MAIL STOP APPEAL BRIEF - PATENTS**


Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**The following documents are hereby submitted:**

- ☒ Appeal Brief to the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office
- ☒ Authorization to withdraw \$510.00 for Appeal Brief Fee
- ☒ Transmittal Sheet
- ☒ Facsimile Cover Sheet

Please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers if an additional extension of time is deemed necessary by the Office. Authorization is hereby given to charge Deposit Account Number 50-1391 if such additional extension is necessary.

**MARK A. LITMAN & ASSOCIATES, P.A.**  
York Business Center, Suite 205, 3209 W. 76<sup>th</sup> St.  
Edina, MN 55435 (952-832-9090)

By:   
Atty: Mark A. Litman  
Reg. No. 26,390

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450 on 31 July 2008

Mark A. Litman  
Name

  
Signature

**S/N 10/764,994****PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES****RECEIVED  
CENTRAL FAX CENTER**

Applicant: Phillip Smith et al.

Examiner

Pinheiro, J. P.

Serial No. 10/764,994

Art Unit

3714

JUL 31 2008

Filed: 26 January 2004

Docket No.:

PA0957.ap.US

Title: **CARD SHUFFLER WITH READING CAPABILITY INTEGRATED  
INTO MULTIPLAYER AUTOMATED GAMING TABLE****MAIL STOP: APPEAL BRIEF - PATENTS**

P.O. BOX 1450

Commissioner for Patents

Alexandria, VA22313-1450

Sir:

The U.S. Patent and Trademark Office is hereby authorized to debit any costs and fees associated with this Petition to Deposit Account No. 50-1391. Appellant(s) is submitting this single copy of the Appeal Brief in Compliance with the requirements of 37 CFR 41.37(c). Appellant requests a personal appearance at the Board of Appeals, but will defer payment of the fee until after receipt of the Examiner's Answer. This Appeal is in response to in response to the FINAL Office Action mailed 29 DECEMBER 2007.

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: MAIL STOP: APPEAL BRIEF - PATENTS, P.O. BOX 1450, Commissioner for Patents, Alexandria, VA 22313-1450 31 July 2008.

Mark A. Litman  
Name

Signature

**IN VIEW OF RECENT LEGAL ARTICLES AND REPORTS, APPELLANTS REQUEST THAT ALL  
JUDGES DECIDING THIS APPEAL HAVE BEEN APPOINTED PRIOR TO FEBRUARY 2000.**

08/01/2008 HMARZ11 00000025 501391 10764994

01 FC:1402 510.00 DA

**TABLE OF CONTENTS****RECEIVED  
CENTRAL FAX CENTER**

1. Real party in interest	page(s)	3	JUL 31 2008
2. Related appeals and interferences	page(s)	4	
3. Status of claims	page(s)	5	
4. Status of amendments	page(s)		
5. Summary of claimed subject matter	page(s)		
6. Grounds of rejection to be reviewed on appeal			
	page(s)		
7. Argument	page(s)		
8. Claims appendix	page(s)		
9. Evidence appendix	page(s)		
10. Related proceedings appendix	page(s)		

**RECEIVED  
CENTRAL FAX CENTER****JUL 31 2008****REAL PARTY IN INTEREST**

The real party in interest in this Appeal is the assignee of the full right, title and interest in this Application, Shuffle Master, Inc., having a place of business at 1106 Palms Airport Drive, Las Vegas, Nevada 89119-3730.

**RECEIVED  
CENTRAL FAX CENTER****JUL 31 2008****RELATED APPEALS AND INTERFERENCES**

The Appellant(s), the legal representative prosecuting this application and Appeal, and the assignee are not aware of any Appeals or Interferences that will directly affect or have a bearing on the Board's of Patent Appeals and Interferences decision in this pending Appeal.

**RECEIVED  
CENTRAL FAX CENTER****JUL 31 2008****STATUS OF CLAIMS**

- 1) Claims 1-32 are pending and all of claims 1-32 have been finally rejected.
- 2) Claims 1-2, 6-17, 20-22, 24, 28 and 31-32 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778).
- 3) Claims 3-5 and 18-19 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Takishima (US Patent No. 4,614,242).
- 4) Claims 23 is rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Huen (US Patent No. 5,240,140).
- 5) Claims 25-27 and 30 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Purton (US Patent No. 6,726,205).

**RECEIVED  
CENTRAL FAX CENTER****JUL 31 2008****STATUS OF AMENDMENTS**

An Amendment was filed in this Application after final rejection. A single word amendment to claim 1 that was submitted but not entered as:

“...a table having an upper surface, the upper surface having a video display surface that provides a video display for at least two different player positions;...”

All amendments filed during the course of ordinary prosecution have been entered without objection.



**RECEIVED  
CENTRAL FAX CENTER****JUL 31 2008****SUMMARY OF CLAIMED SUBJECT MATTER**

**Each of the independent claims are mapped with regard to the original disclosure in the specification, below:**

1. An automated gaming system comprising a gaming table, a mechanical card shuffling device associated with the gaming table, a card reader communicating read card information to at least one processor and an upright video display panel comprising: [Page 21, lines 10-29]

a table having an upper surface, the upper surface having a video display surface that provides a video display for at least two different player positions; [Page 32, lines 8-21]

the at least one processor is in information communication with the upright video display panel and the video display surface, the processor or processors directing video display on both the upright video display panel and the video display surface, and providing game rules for play of at least one casino table card game without the use of physical cards on the table; [Original Claim 1, Abstract; Page 22, lines 1-30]

wherein the card reader establishes an electronic file of an order of a randomized set of cards and provides information from the electronic file that enables a main game processor to provide virtual cards to players based upon the order of cards identified in the electronic file. [Original Claim 1; Page 26, line 10]

**ALTHOUGH CLAIM 22 IS NOT AN INDEPENDENT CLAIM, THE LIMITATION OF "a moveable cover" (present in this claim or other claims) is an important limitation having a bearing on numerous claims on Appeal.**

22. The automated gaming system of claim 1 wherein the mechanical card shuffling device comprises a device for forming a random set of playing cards comprising: [Page 21, lines 10-29]

a top surface and a bottom surface of said device; [Page 32, lines 8-21]

a single card receiving area for receiving an initial set of playing cards; [Page 60, lines 6-9; Figures 9, 11, 14, 16, and 18]

a randomizing system for randomizing an order of an initial set of playing cards; [Page 60, lines 24-25]

a collection surface in a card collection area for receiving randomized playing cards one at a time into the card collection area, the collection surface receiving cards so that all cards are received below the top surface of the device; [Page 61, lines 12-17]

an image capture device that reads the rank and suit of each card before being received on the card collection surface; [Page 84, lines 8-17]

an elevator for raising the collection surface so that at least some randomized cards are elevated at least to the top surface of the device; and [Page 48, lines 21-28]

a moveable cover over the elevator. [Page 64, lines 9-12]

**RECEIVED  
CENTRAL FAX CENTER****JUL 31 2008****GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

Solely for the purposes of expediting this Appeal and complying with the requirements of 37 C.F.R. 1.192(c)(7), the following grouping of claims is presented. This grouping is not intended to constitute any admission on the record that claims within groups may or may not be independently asserted in subsequent litigation or that for any judicial determination other than this Appeal, the claims may or may not stand by themselves against any challenge to their validity or enforceability.

The issues to be resolved in this Appeal are the efficacy of the teachings of a combinations of references in accordance with 35 U.S.C. 103(a) to show the obviousness of claims on Appeal as presented by the PTO as:

- 1) Claims 1-2, 6-17, 20-22, 24, 28 and 31-32 are rejected under 35 USC 103(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778).
- 2) Claims 3-5 and 18-19 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Takishima (US Patent No. 4,614,242).
- 3) Claims 23 is rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Huen (US Patent No. 5,240,140).
- 4) Claims 25-27 and 30 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Purton (US Patent No. 6,726,205).

In considering these rejections, three repeated issues must be addressed concerning the absence of teachings in any references in the rejection of

- a) using physical cards to generate an electronic file that is used to determinc a random order of cards available for play in a casino table card game;

b) using the electronic file to provide virtual images of the playing cards used in a casino table card game; and

c) the use of a moveable cover over the physical playing cards used to provide the electronic file.

The failure of these rejections to address the absence and technical import of at least these three issues destroys the efficacy of every rejection in the Appeal.

RECEIVED  
CENTRAL FAX CENTER

JUL 31 2008

ARGUMENT

1) Claims 1-2, 6-17, 20-22, 24, 28 and 31-32 are rejected under 35 USC 103(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778).

This rejection completely ignores the purposes and benefits of the present claim limitations, while at the same time the rejection ignores the teachings of technical content required by some of the references provided to assert obviousness of the present claims. The rejection further ignores the fact that the practice of the present invention requires the performance of steps and procedures that some of the reference are specifically eliminating as part of their invention.

The technology disclosed by Miyamoto was intended to remove physical game play elements from casino table card games. It was the purpose of both of these references (Miyamoto and Sines) to eliminate at least physical cards from the game table. Applicants determined that there was resistance to this electronic system using **only** virtual cards, and that in certain jurisdictions (e.g., California card rooms), systems using exclusively electronically generated cards are not allowed. This provided a significant technical and legal barrier for one of the widest possible distributions of electronic table technology and reduced the acceptance of the tables with many players.

Given this background, it can be seen that the combination of references do not suggest a method of addressing these problems, and in fact the intent of the references to eliminate physical cards (**while the present invention REQUIRES physical cards in a shuffler**) tend to teach against the novel and unique combination of the technologies as done in the practice of the claimed invention. The present claimed invention, for the first time, teaches the actual shuffling of physical playing cards, the reading (e.g., at least rank or suit and rank) of those shuffled physical playing cards to form a unique data file, and the use of the read information from the shuffled playing cards as the unique data file for play of a round or series of hands of cards dealt in the order determined by the data file at an otherwise electronic gaming table.

Miyamoto and Sines use random number generators to provide each card that is electronically displayed to the players and the dealer. Sines actually described the objective of his system (Abstract and specification) as:

**"Systems and methods for playing live casino-type card games, in particular blackjack. The systems include a presentation unit which has video displays which portray virtual playing cards and other information at gaming tables attended by live participants. Shuffling, cutting, dealing and return of playing cards are accomplished using data processing functions within an electronic game processor or processors which enable these functions to be performed quickly and without manual manipulation of playing cards. The invention allows casinos to speed play and reduce the risk of cheating while maintaining the attractive ambiance of a live table game."** (Abstract, emphasis added)

Sines therefore provides a strongly negative teaching against the use of physical playing cards. Miyamoto also specifically teaches the elimination of cards and the provision of an all electronic system. Miyamoto is primarily directed towards a methodology for reading emotional activity of players at an entirely electronic game that has neither physical playing cards nor physical chips on a table. The technical disclosure of the Miyamoto electronic game itself is meager, but as the game is played on individual screens and information transmitted by transmission to satellite locations, there is absolutely a contraindication of the use of physical cards in the system. Wagers are electronically input, the dealer is an electronic image, and there are no physical gaming elements (cards or chips) used. **Therefore, both of the references used in this rejection specifically teach against the required elements of the claims on appeal where physical playing cards must be shuffled and their order read. It cannot be obvious from these two references to perform steps specifically intended to be eliminated by the teachings of both references.**

**On a clearly technical level recited in the claims,** neither Miyamoto nor Sines recognize and advantage in using a data file created by reading rank and/or suit of playing cards from a recent **physical** shuffling event using physical cards.

Johnson has been cited for its showing of a physical playing card shuffler that reads individual playing cards (rank and suit) and then manipulates cards (sorts or shuffles the cards) based upon read information. However, the rejection asserts teachings, motives and intent in

Johnson that are in fact absent. Specifically, Applicants find **inaccurate and unsupported** the statement on page 3 of the rejection that:

**“Johnson...establishes an electronic file or an order of a randomized set of cards and provides information from the electronic file that enables the main game processor to provide virtual cards based upon the order of cards identified in the electronic file (Col 4, Line 50 – Col 5, Line 6)(Col 6, Lines 4-7). Johnson does not specifically disclose that the virtual cards are dealt to players, however it would have been and obvious modification to one skilled in the art at the time the invention was made to deal the virtual cards to plays [sic, players] in order to create a more interactive and enjoyable game for the player to play.”**

The statements **highlighted** above are in error at least because.

- a) Johnson never mentions any virtual cards. The concept of using read information as a virtual deck is **completely** absent from the reference. The specification of Johnson has been searched on this point and the word “virtual” is not found, nor is a visual display of a specific card (which would be a virtual card if disclosed).
- b) Johnson never mentions or discloses making a file of the order of the shuffled cards in a set. Johnson places cards into individual compartments within a randomizer or collator. When the Johnson device is used to order cards, Johnson places single cards in each compartment and then empties individual cards sequentially into the delivery tray to form ordered decks. **There is no disclosure of forming a data file of an order of cards read from physically shuffled cards and the use of the data file in delivering virtual cards. Nor is there a reason from the references to form such a data file as recited in the claims an Appeal in this Application as the system forming:**

**“...an electronic file of an order of a randomized set of cards and provides information from the electronic file that enables a main game processor to provide virtual cards to players based upon the order of cards identified in the electronic file....”**

With the randomizing function of Johnson, cards are randomly placed into compartments, whether read or not, **AND THERE IS NO ELECTRONIC FILE KEPT BY JOHNSON OF THEIR LOCATION, AND EVEN IF THEIR LOCATION WERE RECORDED, THAT**

**LOCATION RECORD WOULD NOT BE AN "...electronic file of an order of a randomized set of cards..." AS RECITED IN THE CLAMS.**

c) The primary function of the reading of cards in the device of Johnson is to place cards into a predetermined order **not a random order** (collating the cards into an ordered deck **in the delivery tray**) or verifying the presence or absence of cards from an original deck(s). Note the specific portions of Johnson cited by the Examiner, including Column 5, lines 1-6:

"On the other hand, if a multiplicity of decks is to be shuffled for reuse in a game such as baccarat employing like decks of shuffled cards, it may be important to produce eight individually shuffled decks and/or to determine whether cards have been removed or added to the eight deck stack of cards retrieved from the playing table."

**There is absolutely no disclosure in this cited text of forming an electronic file of a randomized set of cards.** As can be seen from this disclosure cited by the Examiner, there is no file created of the order of the shuffled cards and no disclosure of using such a non-existing file or any other card information with respect to a virtual display of playing cards.

d) Johnson has no disclosure of a **game processor** (as opposed to a collating processor controlling only physical manipulation of playing cards) or the transmission of an electronic data relating to the rank and/or suit of a read card to any element outside of the shuffler.

The microprocessor of Johnson is within the shuffler, operates and controls the shuffler, and has no communication function outside of the shuffler. Additionally, the various disclosed purposes of the Johnson microprocessor never include a stored file of the order of the stored deck. Consider the following disclosures by Johnson:

- i) As each card is passed beneath sensor 15 its presence is detected and microprocessor 16, using a random number generator, randomly allocates that card to a predetermined one of the fifty six storage spaces 24 of magazine 20. Microprocessor 16 then controls drive motors 36, 37 and 22 to effect delivery of the card into the randomly predetermined storage space 24.



- ii) The collating apparatus 10 for providing sorted and/or shuffled decks of playing cards from a stack of cards 11 includes holding means 12 for holding the cards in a vertical column 13 above card feed means 14 which feeds the lowermost card of the stack past the sensor 15 which is coupled to a microprocessor 16 to record either the presence of a card and/or the identity of a card by its suit and value. Microprocessor 16 is also coupled to drive motors 35, 36 of feed means 14, respective drive means (not shown) for transverse movement of each carriage 18, card transport drives 37 associated with carriages 18, magazine drives 22 and drive 33 associated with unloading conveyors 31 for selective coordinated operation to collate packs of shuffled or sorted cards.

It is therefore clear that Johnson does not provide even the underlying elements (file storage, indication of the order of cards in a randomized set of cards, external transmission of data, etc.) that are essential teachings from Johnson relied upon for the assertion of obviousness. On that basis alone, the rejection must fail as those elements are **not taught by Johnson or any other reference used in this rejection and there is no reason presented of record for creating those functions, components or elements.**

The use of this non-existent information is exacerbated by the reason presented for asserting obviousness. The statement that:

“...it would have been an obvious modification to one skilled in the art at the time the invention was made to deal the virtual cards to plays [*sic*, players] in order to create a more interactive and enjoyable game for the player to play.”

is not a substantive statement based on facts of record establishing an obvious combination, but is purely self-serving and non-instructive. Applicants can find no teaching or suggestion in the references in this rejection or in the common knowledge of the art that the use of virtual cards, even if a source of information on such cards was available, provides a more interactive and enjoyable game. Such an assertion is unsupportable, since even the most popular card games viewed by the public on television channels are live games, with physical cards, physical chips in a real-time environment.

This rejection is in error. There is no teaching of the creation of a data file on the random order of shuffled cards. There is no teaching of the transmission of a random order of shuffled cards in a created data file from a shuffler to a game controller. There is no teaching of the display of virtual cards from a data file read from physically shuffled playing cards. Each and every one of these concepts (which are recited in the various claims) is absent from this combination of references.

**2) Claims 3-5 and 18-19 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Takishima (US Patent No. 4,614,242 [sic, 4,614,342]).**

This rejection must fail for all of the reasons provided above. Takishima does not correct the deficiencies of the underlying rejection of the independent claims over Miyamoto in view of Sines. Even if Takishima teaches the elements for which it is cited, this reference actually reinforces the failure of the teachings of Miyamoto in view of Johnson and Sines, at least by the following type of teaching:

“An electronic gambling machine system 1 comprises a single dealer machine 2 and a plurality [sic] of player machines 4 which are radiately positioned. In FIG. 1, five player machines 4 are provided. A circuit of the dealer machine 2 comprises a dealer data processor 6 (CPU) for controlling the total game and dealing the cards, and a dealer memory 8 for storing game information. The dealer memory 8 comprises a program memory 8a (ROM) for preliminarily storing game standard steps, random number calculation data used to shuffle and deal the cards, and card character data, and a work memory 8b (RAM) for storing game information processed by the dealer data processor 6 and forwarded from the plurality of player machines 4.”

Takishima provides a completely electronic system, with a random number generator determining playing cards to a display and the like. The purpose of this device is to eliminate the physical gaming elements of the card games, such as the physical cards themselves. The rejection of these claims must fail for at least these reasons.

**3) Claim 23 is rejected under 35 USC 103(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Huen (US Patent No. 5,240,140).**

This rejection must fail for all of the reasons provided above. Huen does not correct the deficiencies of the underlying rejection of the independent claims over Miyamoto in view of Johnson and Sines. Even if Huen teaches the elements for which it is cited, this reference actually teaches structures completely incompatible with the Johnson shuffler and the development of a file of the order of shuffled cards. Huen reads cards one at a time when they are delivered out of the delivery device to the players. It is impossible for this device to create an internal file of the cards in the device without actual physical delivery of the cards to the players. The rejection of these claims must fail for at least these reasons.

**4) Claims 25-27 and 30 are rejected under 35 USC 102(a) as unpatentable over Miyamoto (US 2003/0199316) in view of Johnson (US Patent No. 6,267,248) and Sines et al. 2001/0000778) when further considered with Purton (US Patent No. 6,726,205).**

This rejection must fail for all of the reasons provided above. Purton does not correct the deficiencies of the underlying rejection of the independent claims over Miyamoto in view of Johnson and Sines.

Purton teaches a device that **does not shuffle cards**, but verifies the content of a set of cards. The cards are moved one at a time and either the entire order of the set is reversed or the order of the set is maintained. Purton cannot provide shuffled cards. Purton teaches sending out a report to a printer that indicates verification or defect in the set of cards that have been analyzed. It is important to note that Applicants have not found any specific teaching in Purton that the order or sequence of cards in the verified set is recorded, but rather only that the entirety of the content of the set is compared with an expected content value.

This rejection must also fail for the reasons given above.

JUL 31 2008

**CONCLUSION**

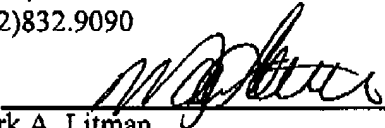
All rejections of record have been shown in detail to be in error. The rejection should be reversed and all claims should be indicated as allowable.

Applicants believe the claims are in condition for allowance and request reconsideration of the application and allowance of the claims. The Examiner is invited to telephone the below-signed attorney at 952-832-9090 to discuss any questions that may remain with respect to the present application.

Respectfully submitted,  
PHILIP M. SMITH et al.

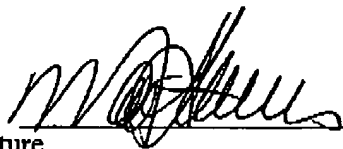
By their Representatives,  
MARK A. LITMAN & ASSOCIATES, P.A.  
York Business Center, Suite 205  
3209 West 76<sup>th</sup> Street  
Edina, MN 55435  
(952)832.9090

Date 31 July 2008 By

  
Mark A. Litman  
Reg. No. 26,390

I hereby certify that this correspondence is being sent by facsimile transmission or deposited with the United States Postal Service as first class mail in an envelope addressed to Box: APPEAL BRIEF - PATENTS, P.O. BOX 1450; Commissioner for Patents, Alexandria, VA 22313-1450 on JULY 31, 2008.

Name: Mark A. Litman

  
Signature

**CLAIM APPENDIX – All Claims are on Appeal []\*indicates a proposed amendment that was not entered in Claim 1]**

1. (APPEALED) An automated gaming system comprising a gaming table, a mechanical card shuffling device associated with the gaming table, a card reader communicating read card information to at least one processor and an upright video display panel comprising:

a table having an upper surface, the upper surface having a video display surface that provides a video display [[for]]\* at least two different player positions;

the at least one processor is in information communication with the upright video display panel and the video display surface, the processor or processors directing video display on both the upright video display panel and the video display surface, and providing game rules for play of at least one casino table card game without the use of physical cards on the table;

wherein the card reader establishes an electronic file of an order of a randomized set of cards and provides information from the electronic file that enables a main game processor to provide virtual cards to players based upon the order of cards identified in the electronic file.

2. (APPEALED) The automated gaming system of claim 1 wherein each player position has an individual player processing board dedicated to that position and the card reader is part of the mechanical card shuffling device.

3. (APPEALED) The automated gaming system of claim 2 wherein each individual player processing board communicates directly with a main game processor.

4. (APPEALED) The automated gaming system of claim 2 wherein each individual player processing board communicates directly with a single dealer game engine processor.

5. (APPEALED) The automated gaming system of claim 4 wherein the single dealer game engine processor communicates directly with the main game processor.

6. (APPEALED) The automated gaming system of claim 1 wherein the processor is programmable to enable the play of more than one different casino table game wherein cards are used in the play of each of the games.

7. (APPEALED) The automated gaming system of claim 1 wherein the video display surface is a continuous video display surface.

8. (APPEALED) The automated gaming system of claim 7 wherein continuous video display surface has changeable light filtering that can screen displayed images from various angles and the light filtering can be changed upon command by the processor.

9. (APPEALED) The automated gaming system of claim 7 wherein the light filtering can be changed upon external command.

10. (APPEALED) The automated gaming system of claim 1 wherein player input is provided at least in part by controls in the video display surface.

11. (APPEALED) The automated gaming system of claim 10 wherein the controls comprise touch screen controls.

12. (APPEALED) The automated gaming system of claim 10 wherein the controls comprise a panel embedded into the video display surface.

13. (APPEALED) The automated gaming system of claim 10 wherein additional player input can be provided from player input provided on a surface below the video display surface and facing a position where players are to be seated.

14. (APPEALED) The automated gaming system of claim 11 wherein additional player input can be provided from player input provided on a surface below the video display surface and facing a position where players are to be seated.

15. (APPEALED) The automated gaming system of claim 12 wherein additional player input can be provided from player input provided on a surface below the video display surface and facing a position where players are to be seated.

16. (APPEALED) The automated gaming system of claim 2 wherein communication between the at least one processor and the individual player processor is performed through a transaction-based protocol.

17. (APPEALED) The automated gaming system of claim 16 wherein either the at least one processor or the individual player processor can start a transaction.

18. (APPEALED) The automated gaming system of claim 4 wherein communication between the at least one processor and the individual player processor is performed through a transaction-based protocol.

19. (APPEALED) The automated gaming system of claim 18 wherein either the at least one processor or the individual player processor can start a transaction.

20. (APPEALED) The automated gaming system of claim 10 wherein each player position has an intelligent individual player processing board dedicated to that position and communication between the at least one processor and the individual player processor is performed through a transaction-based protocol.

21. (APPEALED) The automated gaming system of claim 20 wherein either the at least one processor or the individual player processor can start a transaction.

22. (APPEALED) The automated gaming system of claim 1 wherein the mechanical card shuffling device comprises a device for forming a random set of playing cards comprising:

- a top surface and a bottom surface of said device;
- a single card receiving area for receiving an initial set of playing cards;
- a randomizing system for randomizing an order of an initial set of playing cards;

a collection surface in a card collection area for receiving randomized playing cards one at a time into the card collection area, the collection surface receiving cards so that all cards are received below the top surface of the device;

an image capture device that reads the rank and suit of each card before being received on the card collection surface;

an elevator for raising the collection surface so that at least some randomized cards are elevated at least to the top surface of the device; and

a moveable cover over the elevator.

23. (APPEALED) The automated gaming system of claim 22 wherein the elevator raises all randomized cards above the top surface of the device and the moveable cover is automatically raised to allow the randomized cards to rise above the top surface of the device.

24. (APPEALED) The automated gaming system of claim 22 wherein at least one pick-off roller removes cards one at a time from the card receiving area and moves cards one at a time towards the randomizing system and the image capture device can read a card only after it has been moved by the at least one pick-off roller.

25. (APPEALED) The device of claim 22 wherein at least one microprocessor is present in the device and the at least one microprocessor controls vertical movement of the collection surface and camera triggering.

26. (APPEALED) The device of claim 22 wherein at least a second sensor identifies a position of the collection surface so as to place a top card in the collection area at a position that is level with or above a bottom of at least one card gripping element that is movable from at least one side of the collection area towards playing cards within the card collection area.

27. (APPEALED) The device of claim 24 wherein the microprocessor is programmed to determine a distance that the collection surface must be vertically moved to position at least one specific card at a bottom edge of at least one card gripping element when the card gripping element moves to contact cards within the card collection area.



28. (APPEALED) The automated gaming system of claim 1 wherein the card shuffling device comprises a device for forming a random set of playing cards comprising:

- a top surface and a bottom surface of said device;

- a receiving area for an initial set of playing cards;

- a randomizing system for randomizing initial set of playing cards;

- a collection surface in a card collection area for receiving randomized playing cards;

- an elevator for raising the collection surface within the card collection area;

- at least one card supporting element within the card collection area that will support a predetermined number of cards within the card collection area; and

- an image capture system that can read at least a rank of each at least one card before it is inserted into a set of cards at a position below the predetermined number of cards.

29. (APPEALED) The system of claim 28 wherein an at least one card supporting element comprises an element on at least one side of the card collection area that can move inwardly within the card collection area to contact and support the predetermined number of cards within the card collection area.

30. (APPEALED) The system of claim 28 wherein a microprocessor is communicatively connected to the device and the microprocessor is programmed to determine a distance that the collection surface must be vertically moved to position at least one specific card position other than a top card at a bottom edge of the at least one card supporting element when the card supporting element moves to contact cards within the card collection area.

31. (APPEALED) The automated gaming system of claim 1 wherein the mechanical card shuffling device comprises a device for forming a random set of playing cards comprising:

- a top surface and a bottom surface of said device;

- a single card receiving area for receiving an initial set of playing cards;

- a randomizing system for randomizing the order of an initial set of playing cards;

a collection surface in a card collection area for receiving randomized playing cards one at a time into the card collection area, the collection surface receiving cards so that all cards are received below the top surface of the device;

an image capture device that reads a rank and suit of each card after it has begun leaving the single card receiving area and before being received on the card collection surface;

an elevator for raising the collection surface so that at least some randomized cards are elevated at least to the top surface of the device; and

a moveable cover over the elevator.

32. (APPEALED) The automated gaming system of claim 1 wherein the mechanical card shuffling device comprises an automatic card shuffling device comprising:

a microprocessor with memory for controlling the operation of the device;

an in-feed compartment for receiving cards to be randomized;

a card moving mechanism for moving cards individually from the in-feed compartment into a card mixing compartment where sets of cards are formed;

an image capture system that can identify at least the rank of each card as it is moved towards, into or through the card mixing compartment, but before removal from the device;

the card mixing compartment that identifies a position for each card in each set of cards formed in the card mixing compartment,

a memory that records at least a rank of each card in each set of cards formed in the card mixing compartment; wherein the card mixing compartment comprises a plurality of substantially vertical supports, an opening for the passage of cards from the in-feed compartment, a moveable lower support surface; at least one stationary gripping element, a lower edge proximate the opening, the gripping element capable of suspending cards above the opening; and

an elevator for raising and lowering the moveable support surface.

**RECEIVED  
CENTRAL FAX CENTER****JUL 31 2008****EVIDENCE APPENDIX**

Neither Appellants nor their counsel in this Appeal are aware of any secondary or supplemental evidence submitted during the prosecution of this Application that must be considered by the Board of patent Appeals in this decision.

**RECEIVED  
CENTRAL FAX CENTER****JUL 31 2008****RELATED PROCEEDINGS APPENDIX**

Neither Appellants nor their counsel on this Appeal are aware of any proceedings before the US Patent and Trademark Office or any US Judicial or Quasi-Judicial authority that relates directly towards any issues in this Appeal.